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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

NGUYEN, QUANG N

ART UNIT

PAPER NUMBER

2141

14

DATE MAILED: 07/14/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<p style="text-align: center;">Office Action Summary</p>	<p style="text-align: center;">Application No. 09/531,121</p>	<p style="text-align: center;">Applicant(s) GRESCHLER ET AL.</p>
	<p style="text-align: center;">Examiner Quang N. Nguyen</p>	<p style="text-align: center;">Art Unit 2141</p>
<p>-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --</p>		
<p>Period for Reply</p>		
<p>A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.</p>		
<p>- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.</p>		
<p>- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.</p>		
<p>- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.</p>		
<p>- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).</p>		
<p>- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).</p>		
<p>Status</p>		
<p>1)<input checked="" type="checkbox"/> Responsive to communication(s) filed on <u>13 June 2003</u>.</p>		
<p>2a)<input checked="" type="checkbox"/> This action is FINAL. 2b)<input type="checkbox"/> This action is non-final.</p>		
<p>3)<input type="checkbox"/> Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under <i>Ex parte Quayle</i>, 1935 C.D. 11, 453 O.G. 213.</p>		
<p>Disposition of Claims</p>		
<p>4)<input checked="" type="checkbox"/> Claim(s) <u>1-19</u> is/are pending in the application.</p>		
<p>4a) Of the above claim(s) _____ is/are withdrawn from consideration.</p>		
<p>5)<input type="checkbox"/> Claim(s) _____ is/are allowed.</p>		
<p>6)<input checked="" type="checkbox"/> Claim(s) <u>1-19</u> is/are rejected.</p>		
<p>7)<input type="checkbox"/> Claim(s) _____ is/are objected to.</p>		
<p>8)<input type="checkbox"/> Claim(s) _____ are subject to restriction and/or election requirement.</p>		
<p>Application Papers</p>		
<p>9)<input type="checkbox"/> The specification is objected to by the Examiner.</p>		
<p>10)<input checked="" type="checkbox"/> The drawing(s) filed on <u>13 June 2000</u> is/are: a)<input checked="" type="checkbox"/> accepted or b)<input type="checkbox"/> objected to by the Examiner.</p>		
<p>Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).</p>		
<p>11)<input type="checkbox"/> The proposed drawing correction filed on _____ is: a)<input type="checkbox"/> approved b)<input type="checkbox"/> disapproved by the Examiner.</p>		
<p>If approved, corrected drawings are required in reply to this Office action.</p>		
<p>12)<input type="checkbox"/> The oath or declaration is objected to by the Examiner.</p>		
<p>Priority under 35 U.S.C. §§ 119 and 120</p>		
<p>13)<input type="checkbox"/> Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).</p>		
<p>a)<input type="checkbox"/> All b)<input type="checkbox"/> Some * c)<input type="checkbox"/> None of:</p>		
<p>1.<input type="checkbox"/> Certified copies of the priority documents have been received.</p>		
<p>2.<input type="checkbox"/> Certified copies of the priority documents have been received in Application No. _____.</p>		
<p>3.<input type="checkbox"/> Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).</p>		
<p>* See the attached detailed Office action for a list of the certified copies not received.</p>		
<p>14)<input type="checkbox"/> Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).</p>		
<p>a) <input type="checkbox"/> The translation of the foreign language provisional application has been received.</p>		
<p>15)<input type="checkbox"/> Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.</p>		
<p>Attachment(s)</p>		
<p>1)<input type="checkbox"/> Notice of References Cited (PTO-892)</p>		<p>4)<input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ .</p>
<p>2)<input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)</p>		<p>5)<input type="checkbox"/> Notice of Informal Patent Application (PTO-152)</p>
<p>3)<input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .</p>		<p>6)<input type="checkbox"/> Other: _____ .</p>

Detail Action

1. Claims 1-17 are presented for examination.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

3. **Claims 1-4, 10-11, and 13 are rejected under 35 U.S.C. 102(e) as being anticipated by Pitts (US 5,892,914).**

4. As to claim 1, Pitts teaches a method and system allowing a client 42 to access a Network Distributed Cache (NDC) server system including NDC server site 22, NDC client site 24, and a plurality of intermediate NDC sites 26A and 26B (Fig. 1) comprising:

executing a process requiring a networking protocol (client workstation 42 accesses data on the hard disk 32 by Data Transfer Protocol "DTP" messages 52 via the NDC sites 24, 26B, 26A and 22 of Fig. 1, C9: L52-67);

intercepting communications from the process to a port assigned to support the network protocol (a single request by the client workstation 42 to read data stored on the hard disk 32 is intercepted by the NDC client intercept routine 102 of Figs. 1, 3, C11: L10-21 and C13: L53-60); and

redirecting the communications over an open port (i.e., redirecting the request for data of client workstation 42 from NDC client site 24 using DTP client interface routine 108 to DTP server interface routing 104 of intermediate NDC site 26B of Figs. 1, 3, C11: L38-57).

5. As to claims 2-3, Pitts teaches the method as in claim 1, wherein the step of executing the process comprises executing an application program (receiving the request, checking to determine if the requested data exists, accessing the source data structure, and sending the data and metadata back to the client workstation 42) residing on a remote storage asset (C11-12: L10-10).

6. As to claim 4, Pitts teaches the method as in claim 1, wherein the process utilizes SMB networking (C12: L11-16, L35-37, C13: L53-60, and C15: L18-23).

7. As to claim 10, Pitts teaches the method as in claim 1, wherein the open port, which may receive requests for data in various network standard protocols other than DTP (Data Transfer Protocol including File Transfer Protocol “FTP”) such as NFS protocol, SMB protocol, or another protocol, is a FTP port (C13: L53-67).

8. Claim 11 is a corresponding system claim of claims 1-4; therefore, it is rejected under the same rationale.

9. Claim 13 is a corresponding system claim of claim 10; therefore, it is rejected under the same rationale.

Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claims 5 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pitts, in view of Mark Joseph Edwards, "Network Client and Workstation Concerns", Dec 1997, here in after referred as Edwards.

12. As to claim 5, Pitts teaches the method as in claim 1, but does not explicitly teach the step of intercepting communications from the process comprises intercepting communications for port 139.

In the related art, Edwards teaches port 139 is a TCP port and is used for NetBIOS sessions by SMB for file/print sharing (Edwards, "Network Client and Workstation Concerns", 3rd paragraph of page 1).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to combine the teachings of Pitts and Edwards to have included the step of intercepting communications for port 139 to intercept communications from a process to a port because it would provide protection for the network from unauthorized intruders taking the advantage of the vulnerabilities of the SMB protocol (Edwards, "Network Client and Workstation Concerns", 3rd paragraph of page 1).

13. Claim 14 is a corresponding system claim of claim 5; therefore, it is rejected under the same rationale.

14. Claims 6-9, 12, and 15-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pitts, in view of Grate et al. (US 5,956,483), herein after referred as Grate.

15. As to claim 6, Pitts teaches the method as in claim 1, but does not explicitly teach the step of intercepting communications from the process comprises addressing the communications to an address assigned for local loop-back.

In the related art, Grate teaches a function calling protocol and methodology allowing local function calls embedded within HTML documents by addressing the HTTP POST message to the IP address of the Local Host service (referred to more generally as "local loop-back") along with a pre-selected TCP/IP port designation (Grate, C2: L28-44, C3: L23-36 and C10: L26-63).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to combine the teachings of Pitts and Grate to have included the step of addressing the communications to an address assigned for local loop-back because it would allow client/user/consumer to securely engage in commerce with on-line merchants over the Internet by accessing merchant web sites of the system from behind company Internet firewalls (Grate, C10: L20-25).

16. As to claims 7-9, Pitts-Grate teaches the step of redirecting the communications over the open port comprises encapsulating the communications in an HTTP packet, wherein the communications are located in a post data portion of the HTTP packet (i.e.,

HTTP POST message), and the open port is an HTTP port (port 132B of Fig. 1, Grate, C3: L13-44, and C9: L13-37).

17. Claim 12 is a corresponding system claim of claim 9; therefore, it is rejected under the same rationale.

18. Claims 15-17 are corresponding system claims of claims 6-8; therefore they are rejected under the same rationale.

19. Claims 18-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pitts, in view of Fishler et al. (US 5,941,959), herein after referred as Fishler.

20. As to claim 18, Pitts teaches the method as in claim 1, but does not explicitly teach the step of constructing an application descriptor file for coordinating actions between a client and a server.

In the related art, Fishler teaches a system and method for getting descriptors to data and passing the descriptors among data sources and sinks, wherein the application server invokes a routine to create a message descriptor for its application-specific data and performs such processing as necessary to fill the associated data buffer with the application-specific data (Fishler, C17: L42-53).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to combine the teachings of Pitts and Fishler to have

included the step of constructing an application descriptor file for coordinating actions between a client and a server because it would allow the data sources/sinks which consume the data actual initiate the copying of the actual data itself, using global pointers to the data in the descriptors (Fishler, Abstract).

21. Claim 19 is a corresponding system claim of claim 18; therefore, it is rejected under the same rationale.

Response to Arguments

22. In the remarks, applicant argued in substance that

(A) Prior Art does not teach or suggest the claimed step of "intercepting a communication to the port assigned to support the network protocol and redirecting the communication over an open port".

As to point (A), in response to applicant's argument that the reference does not teach or suggest certain features of applicant's invention, it is noted that the language of the limitation cited in the quotation can be given broad and reasonable interpretation. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Pitts teaches a method and system for accessing distributed data at each network node to pass requests and data that allow a client 42 to access a Network Distributed Cache (NDC) server system including NDC server site 22, NDC client site 24, and a plurality of intermediate NDC sites 26A and 26B (Fig. 1) comprising:

the NDC client intercept routine 102 (as illustrated in Fig. 3) of NDC client site 24, which serves as a gateway to the NDC chain, intercepts requests (communications) to read data stored on the hard disk 32 of the NDC server site 22 from the client workstation 42 in a protocol other than DTP, e.g., requests in NFS protocol, SMB protocol, or another protocol, i.e., intercepting communications from the process to a port assigned to support the network protocol (C11: L10-21 and C13: L53-60); and

redirecting the request for data of client workstation 42 from NDC client site 24 using DTP client interface routine 108 to DTP server interface routing 104 of intermediate NDC sites 26B, 26A and 22, i.e., redirecting the communications over an open port (Figs. 1, 3 and corresponding text, C11: L38-57).

(B) Prior Art does not teach or suggest "the interception of communications from the port assigned to support the **SMB** protocol and redirection of the communications over an open port".

As to point (B), Pitts teaches the client intercept routines 102 as in point (A) above, which may receive/intercept requests for data in a protocol other than DTP, e.g., a request in NFS protocol, **SMB** protocol, or another protocol, are completely responsible for all conversions necessary to a request that has been submitted via any

of the industry standard protocols, i.e., Pitts teaches the interception of communications from the port assigned to support the **SMB** protocol and redirection of the communications over an open port.

23. Applicant's request for reconsiderations as well as arguments filed on 06/13/2003 have been fully considered but they are not deemed to be persuasive.

24. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Art Unit: 2141

25. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Quang N. Nguyen whose telephone number is (703) 305-8190.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's primary, Le H. Luu, can be reached at (703) 305-9650. The fax phone numbers for the organization is (703) 746-7239.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3800/4700.

Quang N. Nguyen



LE HIEN LUU
PRIMARY EXAMINER